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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,614	05/18/2004	Peter Nagler	A92076	3613
30008	7590	01/18/2005	EXAMINER	
GUDRUN E. HUCKETT DRAUDT LONSSTR. 53 WUPPERTAL, 42289 GERMANY				VALENZA, JOSEPH E
		ART UNIT		PAPER NUMBER
		3651		

DATE MAILED: 01/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/709,614	NAGLER, PETER
Examiner	Art Unit	
Joseph Valenza	3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 23 December 2004.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-15 is/are pending in the application.
4a) Of the above claim(s) 5,9 and 13-15 is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-4,6-8 and 10-12 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a))

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9/13/04.

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ .
5) Notice of Informal Patent Application (PTO-152)
6) Other: ____ .

DETAILED ACTION

1. Claims 5, 9 and 13-15 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on December 23, 2004.

Claims 9 and 13-15 are considered by applicant as not readable on elected specie of figure 4.

Claim 5 is withdrawn by the examiner as not being disclosed in figure 4. Pivot axis 16 is perpendicular to applicant's working surface 2.

2. Claims 1, 4, 6, 10 are rejected under 35 U.S.C. 102(b) as being anticipated by French reference 2725430.

Note grippers 12a. With regard to claim 6, note U-shaped gripper with stay (vertical portion of element 10), first and second legs 10b and 10a. Note that the stay determines the receiving width, (thickness of the article plus clearance space) of the gripper for an article.

With regard to claim 6, note that first leg 10b includes fingers 12, 12a and the second leg 10a is attached to the manipulator. Since the attachment to the manipulator is at the top of the gripper, the center of gravity of the gripper must be below the attachment.

3. Claims 2, 3, 7, 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over French reference 2725430.

It is obvious that, if applicant's system does not require a special drive to allow quick retraction of gripper fingers, the drive for grippers 12a of the French reference is capable of the same effect. The speed of gripper retraction to allow discharge of the article has not been proven to be critical to the operation of the system.

With regard to claim 7, members 13a are lateral support flanges. As no reason has been given for having the lateral support flanges shorter than the fingers, the flanges 13a are considered to be functional equivalent. With regard to claim 8, the lateral position of the lateral support flanges has not been proven to be critical to the operation of the system

4. Claims 1-4, 6-8, 10-12 are rejected under 35 U.S.C. 112 for the following reasons.

Claims 1-4, 6-8, 10-12 are rejected under the second paragraph of 35 U.S.C. 112 for being inaccurate because fingers 13 do not grip an article without cooperating member 21 which is not claimed.

Claims 2 and 3 require the fingers to be accelerated downward faster than the acceleration due to gravity. However, this would only cause the article to engage the bottom of member 11 or the optional hold down member 21. Article engagement with an upper part of gripper 6 will not result in the article being removed the gripping device 6 because the article will simply recontact the fingers 13 when the gripper 6 stops dropping. Therefore, the claims 2 and 3 are based on a disclosure that is inadequate under the first paragraph of 35 U.S.C. 112 as to how gripper 6 drops an article via fast downward movements of fingers 13. The claims 2 and 3 must also be incomplete under

the second paragraph of 35 U.S.C. 112 as to any missing features or functions that must be claimed for the gripper 6 to drop an article via fast downward movements of fingers 13.

5. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over French reference 2725430 in view of Mitchell.

It would have been obvious that the endless conveyor means 2 with longitudinal elements 3a and longitudinal gaps there between of French reference 2725430 could be designed like endless belt 39 with longitudinal elements 41 and longitudinal gaps there between which extend transverse to the direction of conveyance in Mitchell so the fingers 12a of French reference 2725430 could extend into the gaps between members 41 of Mitchell. With regard to claim 12, since gripper 9 of French reference 2725430 is moved relative to the direction of conveyance to pick up the articles as they are moved by conveyor 2, the same movement of the gripper with the conveyor movement must be made in the combination of French reference 2725430 and Mitchell.

6. Any inquiry concerning this communication should be directed to Joseph E. Valenza at telephone number (703) 308-2577. Amendments may be faxed to (703) 872-9306. My normal work week is Monday through Thursday.



JOSEPH E. VALENZA
PRIMARY EXAMINER